

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

STATE OF TEXAS, <i>et al.</i>)	
)	
)	
Plaintiffs,)	No. 1:14-CV-254
)	
v.)	
)	
UNITED STATES OF AMERICA, <i>et al.</i>))
)	
Defendants.))
)	

**UNOPPOSED MOTION TO STAY DEADLINE TO RESPOND TO
PLAINTIFFS' AMENDED COMPLAINT AND SUPPLEMENT TO THE AMENDED
COMPLAINT**

Defendants respectfully move to stay their time to respond to Plaintiffs' Amended Complaint [ECF No. 14] and Plaintiffs' Supplement to the Amended Complaint [ECF No. 115] until further order of the Court, after the parties have had an opportunity to meet-and-confer and propose a schedule for further proceedings in this matter (following final resolution of Defendants' motion to stay the preliminary injunction in this case, including through any appellate channels in which relief may be sought). The basis for this motion is as follows:

1. Pursuant to this Court's Order of March 2, 2015, Defendants' response to the Amended Complaint (including Plaintiffs' Supplement to the Amended Complaint) is due thirty (30) days from the date of the Court's decision on Plaintiffs' Motion for Preliminary Injunction, or by March 18, 2015. *See* ECF No. 134.
2. In its Order granting Plaintiffs' Motion for Preliminary Injunction, the Court directed the parties to "meet and confer and formulate and file with the Court by February 27,

2015 an agreed upon (to the extent possible) schedule for the resolution of the merits" of the case. *See Order of Temporary Inj.* ("Order") at 2 [ECF No. 144].

3. On February 27, 2015, the parties jointly moved to extend their time to submit a proposed schedule for further proceedings until 14 days after a final resolution of Defendants' request to stay the preliminary injunction entered in the case, including through any appellate channels in which relief may be sought. *See* Jt. Mot. to Extend Deadline to Propose Schedule for Resolution of the Merits [ECF No. 162]. The basis for that motion was to allow the parties' discussion and presentation to the Court concerning further proceedings on the merits of Plaintiffs' claims to be informed by the resolution of the stay proceedings. *Id.* at 2. On March 2, 2015, the Court granted that Motion. *See* ECF No. 164.

4. Because the timing and manner in which Defendants respond to the Complaint may be the subject of meet-and-confer discussions between the parties and may be addressed in any proposed schedule submitted by the parties, a stay of that response deadline until further order of Court would promote judicial economy and prevent unnecessary expenditure of time and resources on that response until the parties and the Court have had the opportunity to discuss a schedule for further proceedings in this matter. Given the present posture, were Defendants required to respond to the Amended Complaint by March 18, 2015, that response would very likely take the form of a motion to dismiss under Fed. R. Civ. P. 12(b). Commencing with briefing on a motion to dismiss before the parties have submitted a proposed schedule for proceedings in this matter, and before this Court has entered such a schedule, would be contrary to an orderly disposition of this matter and would defeat the purpose of the parties' joint motion to postpone the filing of a proposed schedule until final disposition of Defendants' stay motion. For these reasons, Defendants' time to respond to the Complaint should be stayed pending

further order of the Court, following submission by the parties of a proposal for further proceedings in this matter.

5. Plaintiffs do not oppose the relief sought herein.

Dated: March 13, 2015

Respectfully submitted,

KENNETH MAGIDSON
United States Attorney

BENJAMIN C. MIZER
Acting Assistant Attorney General

DANIEL DAVID HU
Assistant United States Attorney
Deputy Chief, Civil Division

KATHLEEN R. HARTNETT
Deputy Assistant Attorney General

DIANE KELLEHER
Assistant Branch Director,
Federal Programs Branch

/s/ Kyle R. Freeny
KYLE R. FREENY (Cal. Bar No. 247857)
Attorney-in-Charge
Civil Division, Federal Programs Branch
U.S. Department of Justice
P.O. Box 883
Washington, D.C. 20044
Tel.: (202) 514-5108
Fax: (202) 616-8470
Kyle.Freeny@usdoj.gov

Attorneys for Defendants

CERTIFICATE OF CONFERRAL

Pursuant to Local Civil Rule 7.1.D, undersigned counsel hereby certifies that she conferred with counsel for Plaintiffs, Angela Colmenero, on March 13, 2015, who indicated that Plaintiffs do not oppose the relief sought herein.

/s/ *Kyle R. Freeny*
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Stay Deadline to Respond to the Amended Complaint and Supplement to the Amended Complaint has been delivered electronically on March 13, 2015, to counsel for Plaintiffs via the District's ECF system.

/s/ *Kyle R. Freeny*
Counsel for Defendants